

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of:	)	
	)	
Joint Application by SBC Communication Inc.,	)	
Illinois Bell Telephone Company, Indiana Bell	)	
Telephone Company Incorporated, The Ohio Bell	)	
Telephone Company, Wisconsin Bell Inc., and	)	WC Docket No. 03-167
Southwestern Bell Communications Services,	)	
Inc., for Authorization Under Section 271	)	
Of the Communications Act to Provide	)	
In-Region, InterLATA Service in Illinois,	)	
Indiana, Ohio, and Wisconsin	)	

**SUPPLEMENTAL COMMENTS OF TDS METROCOM, LLC**

TDS Metrocom, LLC ("TDS Metrocom") hereby submits these supplemental comments pursuant to the Public Notice of September 30, 2003 concerning the Joint Application by SBC Communications Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, The Ohio Bell Telephone Company and Wisconsin Bell, Inc. (collectively referred to as "SBC"), for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the States of Illinois, Indiana, Ohio, and Wisconsin ("Joint Application").<sup>1</sup> For the reasons stated in these supplemental comments as well as TDS Metrocom's comments filed on August 6, 2003, the Commission should deny the Joint Application.

The Public Notice asked for comments regarding a recent *ex parte* filing by SBC. According to the Public Notice, "This *ex parte* filing contains two Accessible Letters made available to competitive LECs in Indiana and Ohio regarding recurring charges for

collocation direct current (DC) power."<sup>2</sup> The SBC *ex parte* demonstrates yet again SBC's propensity to do exactly what they feel is minimally necessary to secure Section 271 relief and nothing more to resolve ongoing problems such as the improper application of DC power charges for collocation.

In various filings in this proceeding including its recent *ex parte* submission on September 23, 2003, Nuvox Communications ("Nuvox") has clearly laid out evidence that SBC's practice of billing for redundant collocation power is contrary to the Telecom Act. This alone should preclude approval of the Joint Application. Because Nuvox has been at the forefront of discussing this issue at the FCC and because they have filed complaints on the subject in Indiana and Ohio, SBC appears to have reluctantly made an attempt to resolve the issue through the issuance of the two Accessible Letters attached to its September 29<sup>th</sup> *ex parte* filing.

This attempt to rectify the problem falls woefully short. First, SBC has conveniently failed to include carriers operating in the state of Wisconsin in its offer to limit the application of charges for redundant DC power.<sup>3</sup> Inappropriate billing for redundant collocation power is a problem that is just as persistent in Wisconsin as it is in Indiana and Ohio. TDS Metrocom raised this issue in its initial comments in this proceeding.<sup>4</sup> In Wisconsin, SBC and various CLECs including TDS Metrocom agreed to a settlement dealing with collocation rate issues. However, the settlement did not cover the application of collocation DC power charges for unused, redundant collocation power

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<sup>1</sup> *Comments Requested in Connection with SBC's Pending Section 271 Applications*, Public Notice, WC Docket 03-167, DA 03-3003, released September 30, 2003.

<sup>2</sup> Public Notice at 1.

<sup>3</sup> The collocation DC power rate structure in place in the state of Illinois is dissimilar to those in the other SBC Midwest states and is not at issue here.

<sup>4</sup> *Comments of TDS Metrocom, LLC*, WC 03-167, filed August 6, 2003 at 16.

feeds. Because the issue could not be resolved through negotiations or through the dispute resolution process, TDS Metrocom filed a complaint with the Public Service Commission of Wisconsin.<sup>5</sup> (Attached)

It is troubling to see SBC's willingness to respond to CLEC issues being contingent upon the opening of formal regulatory proceedings. In any event, SBC should not be allowed to selectively offer proposals to settle disputes with CLECs on issues that similarly affect CLEC operations in other SBC Midwest states.<sup>6</sup>

A second deficiency in SBC's offer to amend collocation DC power provisions in interconnection agreements is that it is solely prospective in nature. As TDS Metrocom's Wisconsin complaint shows, over \$1.6 million in charges are in dispute with nearly \$1 million of that for TDS Metrocom's Wisconsin operations alone.<sup>7</sup> Simply revising billing practices in the future does not address a huge outstanding issue that has serious financial implications to TDS Metrocom and impacts the ability of TDS Metrocom to compete as a facilities-based CLEC.

SBC should be required to comprehensively deal with the collocation DC power issue in order to meet the requirements of Section 271. To accomplish this, all states in which the suspect billing practices are occurring in the SBC Midwest region should be covered by any offer to amend interconnection agreements. In addition, SBC should be required to resolve both the historical and prospective portions of these disputes.

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<sup>5</sup> *TDS Metrocom, LLC, v. Wisconsin Bell, Inc., d/b/a/ SBC Wisconsin*, "Wisconsin Complaint", filed September 19, 2003, Case No. 6720-TI-185.

<sup>6</sup> TDS Metrocom also raised the double billing for DC power issue in relation to SBC's Michigan 271 Application. However, the FCC declined to address the issue since it had not been formally raised before the Michigan PSC.

<sup>7</sup> Wisconsin Complaint, paragraph 22.

Respectfully submitted,

By: /s/ Mark Jenn

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